

# EXHIBIT 2

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## He spent a year in jail and lost his business, but they had the wrong Carlos



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BOGOTA, COLOMBIA — Carlos Ortega spent a year in jail, ran up almost \$300,000 in legal bills and lost his livelihood — all over a basic transcription error and what his lawyers say was an overzealous South Florida prosecutor.

But even though U.S. courts admitted that they made a mistake when they extradited the 66-year-old Colombian to the United States in 2012 on drug trafficking charges, Ortega is powerless to fix the injustice.

In June, the longtime commercial pilot and aviation expert lost an appeal seeking reimbursement of his legal fees plus damages. The U.S. Court of Appeals threw out the case saying the prosecutor had “absolute immunity,” even though Ortega’s lawyers argued that the prosecutor knew Ortega was innocent, hid evidence that would have cleared him and shut down DEA officials who became concerned that they had the wrong man.

“I don’t understand how there can be immunity under these despicable circumstances — when they destroy your career completely,” said Ortega, who lost his company while he was in jail. “If I had been guilty of something, then OK, but my case had been dismissed.”

The U.S. Attorney’s Office declined to comment for this article, but documents and interviews with Ortega and others shed light on the obscure world of extradition, a system that critics say is riddled with problems.

Ortega’s troubles began in October 2011, when Colombian agents came pounding on his door at 4 a.m. and hauled him away in handcuffs. They informed him he was wanted in the United States for selling an aircraft to a drug dealer and they told him they had telephone recordings to back up their claims.

### Carlos vs. Carlos

Ortega was well known in Colombia’s aviation circles. A commercial pilot for decades, he later became the head of security for the equivalent of the Federal Aviation Administration and was someone frequently quoted in the press. In 2004, he started his own company, working as a consultant and airplane broker.

When he was arrested — despite his clean record — Ortega was locked in the extradition ward of the notorious La Picota, a maximum security prison in Colombia's capital designed to hold hardened criminals and drug lords.

A private investigator soon discovered the prosecution's mistake. The target of the wiretap investigation had been recorded speaking to two different men, both named Carlos. One was in Costa Rica and involved in criminal activity. The other was Ortega in Bogotá. Prosecutors were conflating the two men.

The entire case could have been resolved by looking at Ortega's passport (he'd never traveled to Costa Rica), or by double-checking the recording.

"An 8-year-old child could have told you that our voices were completely different," Ortega said.

Ortega's lawyers and advocates alerted U.S. authorities to the problem in March 2012, five months after the arrest, but they say they were ignored. They also say federal prosecutor Andrea Hoffman covered up the exculpatory evidence.

When the DEA in Bogotá became concerned that they had the wrong Carlos, Hoffman "ordered the DEA agents" to "stand down," Ortega's lawsuit said. She also directed them "to keep the phone wiretaps that established Mr. [Ortega's] innocence a secret."

In June, 2012, Ortega was sent to Miami for trial, and that's where the real pressure began. Ortega says that even though prosecutors knew he was innocent they tried to force him to take a plea deal. At one point they told him that if he declared his guilt, he could go home in six months. When he refused, they told him to plead guilty and he could go home immediately.

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#### FROM 2002-2015, THE UNITED STATES EXTRADITED 1,878 PEOPLE FROM COLOMBIA, AND 67 HAVE BEEN EXTRADITED THIS YEAR.

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"I would say 99.9 percent of people put in that situation plead guilty just to go home," Ortega said. "I would have stayed there my whole life but I was not going to say I was guilty of something I didn't do."

Last August, as it became clear they had made a mistake, prosecutors dropped all charges and Ortega came home. By that point, however, his life had come apart.

Ortega and his family had amassed hundreds of thousands of dollars in debts to cover legal fees and travel costs, and his consulting company had gone under. Once a successful businessman, Ortega and his wife now live in a rented apartment in Bogotá and rely on their children for support. He was also stripped of his U.S. visa that he'd had for decades.

"I came out of this with nothing," Ortega said. "Even my pants are borrowed."

### Nine-count complaint

Last year, Ortega sued the United States and Hoffman on a nine-count complaint including false imprisonment, false prosecution, abuse of power, and intentional infliction of emotional distress.

Though the appellate court noted that Ortega's "arrest and detention negatively impacted his family life, mental health, credibility, reputation, ability to secure employment," it said the U.S. had "sovereign immunity" and that Hoffman was entitled to "absolute immunity" because the arrest arose from "her prosecutorial duties."

Marcia Silvers, the Coral Gables attorney who handled Ortega's appeal, said the case boiled down to the prosecutor's role. If Hoffman had been considered a "law enforcement" official she could have been held liable.

"Prosecutors frequently direct and supervise investigations. If they...violate defendants' constitutional rights, they should not be afforded immunity," Silvers wrote in an email. "They should be subject to civil liability for damages, as are law enforcement officers under the Federal Tort Claims Act."

The case, she said, is unusual because "on appeal, both the government and the defense agreed that Carlos Ortega Bonilla was factually innocent and wrongfully charged. Yet, the appellate court held that the prosecutor had sovereign immunity."

### Whose case?

Felipe De Vivero, Ortega's Colombian lawyer, said the extradition system is something of a "catch 22" for defendants like Ortega. Though he was initially held in Colombia, the charges came from the U.S., and there was no way to challenge the evidence in Colombian courts.

"In Colombia, they say it's not our problem, it's the fault of the United States," he explained. "And in the U.S., they claim sovereign immunity."

From 2002 through 2015, the United States extradited 1,878 people from Colombia. So far this year, 67 have been extradited.

In October, the Miami Herald interviewed more than 10 people who are either awaiting extradition or had passed through the system. All claimed they were denied basic rights while being held on U.S. charges in Colombia, including running water, sunlight, minimal levels of hygiene, access to medical care and full disclosure of the charges against them.

“Carlos [Ortega] is a hero to so many because he went through the process, stuck to what he knew was right and didn’t break down,” said Kaleil Isaza Tuzman, who was detained in September 2015 on allegations of U.S. securities fraud.

### Entrepreneur to detainee

Isaza, a dual U.S.-Colombian citizen with real estate investments in the tourist city of Cartagena, was getting off a domestic flight to Bogotá when he was apprehended. He asked to be sent back to New York on the next flight — in handcuffs and under guard if necessary — to fight the charges. Instead, he spent nearly 11 months in Colombian maximum security prisons — where he says he was extorted and abused — before being extradited.

Isaza had no criminal record and was accused of a white collar crime. He had been in the U.S. shortly before his arrest and was planning to be back several days later. By detaining him in Colombia, and putting him in with hardened criminals without an arraignment, he believes U.S. authorities were putting him in harm’s way and violated his constitutional rights.

“The entire system is designed to break you down and get you to plead,” he said from New York, where he is under house arrest awaiting trial. “And I think it’s set up that way on purpose. Your family is suffering too. You haven’t even seen a judge yet but you feel enormous pressure to just accept guilt and go home — irrespective of fact.”

Ortega is bitter about the experience, but he’s also philosophical.

“In any war, there will always be innocents who get injured,” he said. “This is a war against narco-trafficking and I’m one of the wounded. It’s like they were trying to bomb the house next door but I got hit by the shrapnel.”

Even so, Ortega said he’d like a public apology.

“But the most important thing,” he said, “is that we have to find a way so that this quits happening.”

*A previous version of this story misstated the location of the U.S. Court of Appeals.*



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**Roberto Ravelo**

And they want to take our guns ! God forbid if the government succeed this country with all the power that they have will be worst than IRAN , LONG LIVE THE NRA !! With out them those cops n prosecutors will be jailing and abusing us all ready the only thing that holds them abusing us more is that they know that there are more guns than citizens in this country

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**Raydel Sánchez** · Florida International University

Yes, prosecutors often act with absolute malice and yet are afforded sovereign immunity for their despicable acts. That is a wrong that should be corrected. The US government should reimburse Mr. Ortega up to the last penny of his legal fees. And may prosecutor Andrea Hoffman be thrown into the lake of fire and sulfur for her abominable wickedness. There has to be a special place in hell for scoundrels like her.

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**Andoni D'Alessandro** · Miami Beach, Florida

If you google her name, there have been several instances where US Attorney Hoffman has withheld and held back evidence in court/trials/depositions, etc. and has been warned by the judge. Hoffman needs to be removed from the legal system. She operates illegally, dirty, and in direct conflict with laws and the US Constitution. One time is a mistake, but in Hoffmans cases, there has been a direct pattern. She should be in jail!

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**Pedro Perez** · Bal Harbour, Florida

If you have the power to disrupt another person's life, then you should be held accountable if you do so unjustly and with malice. Anyone can make a mistake but the tale told here shows the Federal Prosecutor was more concerned about furthering her case than the truth. Sure, she must have her side of the story, but we'll never know what it is because of some absurd sovereign immunity that seems to come out of nowhere. I hope this man gets his recognition, and perhaps more importantly, the process is tweaked so that these situations aren't perpetuated. Put yourself in his shoes: you are in your... See More

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**Andoni D'Alessandro** · Miami Beach, Florida

Well also fault the Colombian judicial system. Ortega was placed in Colombian prison for the first 5 months and his private investigator found proof of his innocence, Colombia did nothing but extradite him to Miami. Maybe his own country should have taken his side and validated the truth. The sad thing is loss of time, money and freedom, but also how politics can harm innocent people. US and Politics abroad have no regulation, modern day Mafia tactics. Venezuela, USA, Russia, China, etc....

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**Pedro Perez** · Bal Harbour, Florida

Andoni D'Alessandro Under normal circumstances, yes, but when there's a steady flow of extraditions and a level of understanding between 2 nations, I can imagine the Colombian government ceding to the US. At stake are also big grants the US gives Colombia and that may unduly influence decision makers. I can visualize a mid-level bureaucrat pondering sacrificing a career for a stranger. I place a MUCH larger blame on the US in this case. I can imagine this case being a wake-up call for both governments, or at least I can hope.

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**Roberto Ravelo**

Where is her boss ? Is this guy in charge of the US attorney's office doing anything ?

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**Radim Francisco Parchansky** · Miramar, Florida

Where is the media, TV? Such injustice by the system, Constitution and Civil rights are being pushed aside!

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